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IN THE

Supreme Court of the United States

October Term, 1964

Case No. 416

HENRY GOLDMAN, and MAY GOLDMAN,

Appellants,

vs.

THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF LOS ANGELES, CALIFORNIA,

Appellee.

On Appeal From the Supreme Court of the State of California.

Opposition to Motion of Amici Curiae for Leave to File Brief in Support of Jurisdictional Statement of Henry and May Goldman.

Introduction.

Opposition is hereby made to the motion of John Swigart, Robert T. McInerney, Janet M. Bekins and the Briggs Apartment Hotel Company for leave to file a brief *amici curiae* in support of the Jurisdictional Statement filed on behalf of Henry and May Goldman (the "Goldmans") by Phill Silver, Esq.

The grounds of opposition are as follows:

1. Said parties failed to raise and/or preserve any substantial federal questions in the proceedings before the state courts. In order to maintain some semblance of active participation in this litigation, they, and their attorneys, now seek to participate as *amici curiae*.

2. Counsel for the moving parties in the state court proceedings showed no enthusiasm for the types of issues they now seek to support. For example, Austin Clapp, in the course of final argument before the trial court, bluntly indicated his disagreement with the contentions of Mr. Silver. See Appendix "A" hereto.

3. There is a defect of jurisdiction with respect to the issues raised in the proposed brief submitted on behalf of *amici curiae* in that the Goldmans failed to raise and/or preserve the federal questions sought to be asserted by the *amici curiae*.

4. The position advanced by the *amici curiae* is wholly without merit.

ARGUMENT.

I.

A Fatal Jurisdictional Defect Exists as to the Points Asserted by Amici Curiae in that the Appellants Whom Amici Curiae Seek to Support Failed to Raise and Preserve the Questions Before the State Courts.

Amici curiae seek to support the Goldmans' Jurisdictional Statement by providing additional briefing of a contention that Article XIII, § 19 of the California Constitution (Appendix "A" to the Motion and Brief of *amici curiae*) violates the Fourteenth Amendment to the United States Constitution.

Parenthetically, it should here be explained that California Health and Safety Code §§ 33950 through 33954 provide a method for financing redevelopment projects. They provide that any redevelopment plan may provide for the issuance of tax allocation bonds, which would be paid from certain increases in tax revenue obtained from the project area. That portion of the taxes levied on the project area attributable to the increases in the assessed valuation of the project area subsequent to the adoption of the redevelopment plan would be allocated to the redevelopment agency to pay the principal of and interest on indebtedness incurred by the redevelopment agency to finance or refinance the redevelopment project.

The mechanics of this process are as follows: The various taxing agencies having jurisdiction to levy and collect taxes from a project area do so in their normal manner and at their current rate. The proceeds of the taxes levied are then divided between the taxing agencies and the redevelopment agency. The various

taxing agencies receive the amount produced by applying their current tax rate to the assessed valuation of the project area as shown on the last equalized assessment roll prior to the adoption of the redevelpment plan for the area. If there has been no increase in valuation since that time, such taxing agencies receive the entire tax proceeds. However, the tax funds produced by the application of the current tax rate of the various taxing agencies to any increase in valuation beyond the assessed valuation as shown on such tax roll are allocated to the redevelopment agency to pay the obligations incurred in executing the project.

These provisions of the Health and Safety Code were enacted to become effective only if a constitutional amendment were subsequently adopted authorizing and ratifying them. In 1952 an amendment to the California Constitution was adopted by the people of the state adding Article XIII, Section 19 thereto, which specifically authorized and ratified Sections 33950 through 33954 and empowered the Legislature to enact legislation containing the exact provisions of Sections 33950 and 33951, which are the operative sections providing for the tax allocation.

The Goldmans have asserted their Jurisdictional Statement that Article XIII, § 19 and California Health and Safety Code §§ 33950 through 33954 violate the due process and equal protection clauses of the Fourteenth Amendment (Goldman Juris. St., p. 3).

The Goldmans did not contend before th trial court that Article XIII, § 19 violated the Fourteenth Amendment to the United States Constitution. In an Amendment to the Joint Pre-Trial Statement filed in the *Gold-*

man action in the trial court, the Goldmans raised the contention that California Health and Safety Code §§ 33950-33954 violated the due process clause of the Fourteenth Amendment to the United States Constitution [C. T., p. 575, line 26 to p. 576, line 12].

However, the Goldmans did not preserve this question by reasserting it in their brief before the California appellate courts. An examination of the Goldmans' brief before the California appellate courts reveals that they did not at any time make their attack on §§ 33950-33954 in terms of invalidity under the United States Constitution, and at no time did they contend that Article XIII, § 19 of the California Constitution violated the Fourteenth Amendment to the United States Constitution, or any other provision thereof. (See Goldman Op. Br. below, esp. pp. 27-50).

The only reference in the Goldmans' appellate brief below to their trial court contentions here involved, was a recitation of the contentions of both parties below together with a partial recitation of the findings of fact and conclusions of law of the trial court (Goldman Op. Br. below, pp. 3-23). This was merely a matter of setting the stage for the contentions to be made on appeal. These contentions, however, insofar as here relevant, were not reasserted in the brief. The argument, points and authorities were in terms of California law and the California Constitution. At no time was the suggestion made that any of these provisions were invalid under the United States Constitution.

The questions here raised by *amici curiae* were raised before the California Supreme Court only in an *amicus* brief by a party not before this Court. The California Supreme Court did not expressly pass on the questions

[see *In re Redevelopment Plan For Bunker Hill*, 61 Adv. Cal. 1, 37 Cal. Rptr. 74 (1964).]

The situation, then, is that at no time did the Goldmans contend before the California courts that Article XIII, § 19 violated the Fourteenth Amendment to the United States Constitution. The Goldmans did contend in the trial court that California Health and Safety Code §§ 33950-33954 violated the Fourteenth Amendment of the United States Constitution, but they failed to reassert even that contention before the California appellate courts.

Under long-settled California practice, the failure to assert a point in the appellants' opening brief on appeal waives the point, even though the point had been asserted before the trial court [*Roberts v. Krafts*, 141 Cal. 20, 25, 74 Pac. 281 (1903); *Mayne v. San Diego Elec. Ry. Co.*, 179 Cal. 173, 179, 175 Pac. 690 (1918); *Wheeling v. Financial Indemnity Co.*, 201 Cal. App. 2d 36, 44-45, 19 Cal. Rptr. 879 (1962)].

Accordingly, the California Supreme Court did not pass on the federal constitutional issue. [see *In re Redevelopment Plan For Bunker Hill*, 61 Adv. Cal. 1, 51-54, 37 Cal. Rptr. 74 (1964)].

The failure to raise and preserve the federal questions as to Article XIII, § 19 and California Health and Safety Code §§ 33950-33954 creates a fatal defect of jurisdiction [*Hulbert v. Chicago*, 202 U. S. 275, 280-281; *C.I.O. v. McAdory*, 325 U. S. 472, 477; *Chandler v. Manifold*, 290 U. S. 665].

Since the question which the *amici curiae* seek to support is not properly before this court because the appellants raising the question failed to preserve it be-

fore the California courts, it is submitted that the motion of said *amici curiae* for leave to file a brief should be denied.

II.

The Questions Raised by the Amici Curiae Are Not Substantial.

Amici curiae contend that Article XIII, § 19 of the California Constitution and California Health and Safety Code §§ 33950 through 33954 violate the Fourteenth Amendment to the U. S. Constitution in that they provide for "taxation without representation" and because the Council of the City of Los Angeles (the "City Council") was a partisan agency. These contentions are without merit and raise no substantial federal question.

A. The California Constitution and Statutes Do Not Provide for Taxation Without Representation.

The *amici curiae* contend that the power conferred on the City Council by Article XIII, § 19 of the California Constitution, and California Health and Safety Code §§ 33950 through 33954, as the local legislative body of the community, to adopt a redevelopment plan providing for tax allocation, provides for taxation of taxpayers in Los Angeles County, the Los Angeles County Flood Control District and the Los Angeles City School District, residing outside of the City of Los Angeles, by the City Council to pay the City's share of a strictly City project. Since these taxpayers are not represented on the City Council, the *amici curiae* contend that this constitutes taxation without representation. The *amici curiae* appear to recognize that the allocation of the tax funds to the Agency does not it-

self constitute a tax levied on these parties, but they contend that since the allocated funds will have to be made up from increased taxes outside of the Project Area, it in effect results in a tax levied by the City Council on persons residing outside of the City (Amici Brief, p. 8).

In other words, they are contending that since the City Council has been empowered in effect to remove part of the assessed valuation of the Project Area from the taxing jurisdiction of Los Angeles County, the Los Angeles County Flood Control District and the Los Angeles City School District, the taxes which would have gone to those entities must be replaced by higher taxes imposed on the remaining property therein. This increased taxation, it is contended, is in effect imposed by the City Council, because it performed the act which took away a portion of the tax base and thereby made the imposition of increased taxes by the other taxing entities necessary. These contentions are entirely without merit. It is obvious that the City Council is imposing no taxes on non-residents, and that increased taxes, if any, would be levied by the proper authorities.

It will be noted that the local legislative body, in this case the City Council, in no event actually levies any taxes on anyone by adopting a redevelopment plan providing for tax allocation financing. The effect of the tax allocation provisions is to allow the various taxing entities such as the City, the County, etc., to impose their current tax rate on the assessed valuation of a redevelopment project area as of the last equalized assessment roll prior to the adoption of the redevelopment plan. The proceeds thereof are collected by the County Tax Assessor and disbursed to the various taxing en-

tities in the usual way. However, the increase in valuation of the redevelopment project area is, in effect, not subject to taxation. The tax funds produced by the imposition of the current tax rate of the various taxing entities on this increase in valuation, while levied and collected in the usual way, is paid to the special fund of the redevelopment agency to pay that portion of project expenses not covered by the federal subsidy. (For a detailed explanation of the financing of the project herein, see Respondents' Brief below, pp. 51-57.) Rather than the imposition of a tax, this process is most nearly analogous to the granting of a tax exemption to the valuation increment resulting after the adoption of the redevelopment plan.

Redevelopment in California is not a matter of municipal concern, but rather, is a matter of state concern [California Health and Safety Code Sections 33040-33048, attached hereto as Appendix "B", *Fellom v. Redevelopment Agency,* 157 Cal. App. 2d 243, 247-248, 320 P. 2d 884 (1958); *Andrews v. City of San Bernardino,* 175 Cal. App. 2d 459, 461-463, 346 P. 2d 457 (1959). See also *Housing Authority of the City of Eureka v. Superior Court,* 35 Cal. 2d 550, 219 P. 2d 457 (1950); *Drake v. City of Los Angeles,* 38 Cal. 2d 872, 243 P. 2d 525 (1952)]. Redevelopment projects are state projects adopted by state agencies to carry out state objectives [*Fellom v. Redevelopment Agency,* 157 Cal. App. 2d 243, 247-248, 320 P. 2d 884 (1958); *Andrews v. City of San Bernardino,* 175 Cal. App. 2d 459, 461-463, 346 P. 2d 457 (1959). Respondents' Brief below, pp. 15-18]. The expenditure of the tax allocation funds is therefore to pay the state's share of a state project. This procedure was

approved by the people of the State of California when they voted in favor of adding Article XIII, § 19 to the California Constitution. If this allocation were tantamount to the imposition of a tax it would certainly not be taxation without representation. Rather, it would be a state tax imposed by the people of the state upon themselves, as an efficient and effective means of coping with the state-wide problems created by slum and blighted areas.

It should be noted here that some sister states finance redevelopment in a quite similar way. New York, for example, follows a system whereirr a redevelopment company agrees to carry out the redevelopment plan, including clearance and construction of improvements. To aid in the carrying out of this procedure, the redevelopment company is granted a tax exemption for up to twenty-five years on the value of improvements representing an increase over the assessed valuation of the property acquired for the project [New York Constitution, Article SVIII, Section 2; New York Redevelopment Co. Law, Section 26]. This was upheld in *Murray v. La Guardia,* 291 N. Y. 320, 52 N.E. 2d 884 (1943), *cert. denied* 321 U. S. 771. See also *Land Clearance Authority v. St. Louis,* 27 S. W. 2d 58 (Mo. 1954); *Redfern v. Board of Comrs. of Jersey City,* 137 N.J.L. 356, 59 A. 2d 641 (1948), and *Dodge v. The Prudential Ins. Co. of America,* 343 Mass. 375, 179 N. E. 2d 234 (1961), wherein similar tax exemption provisions were upheld.

It will be noted that the end result of the New York system is substantially identical with that obtaining under Sections 33950-33954. Under the New York system, a private company takes a conveyance of the prop-

erty in the project area from the city, or is delegated the power of eminent domain to acquire the property directly, and undertakes to do all of the necessary work to execute the project at its own expense. The federal subsidy defrays part of the cost, and the tax exemption operates to defray the balance of the cost of site improvements, demolition, etc. In California, a state agency, the local redevelopment agency, acquires the property, does the necessary site preparation, and sells off the land for uses in accordance with the redevelopment plan. Since the agency would not be holding the property for any extended period, a straight tax exemption would not operate effectively. Therefore, an allocation is made to the agency of the funds which would have passed to it by way of savings due to a tax exemption under the New York system. In both cases, taxes are utilized as a means of defraying the cost of clearing out the slum and blighted conditions and putting in the site improvements which lead to the increased valuation. It is submitted that this is entirely reasonable and valid.

The contention of *amici curiae* that the City Council cannot, consonant with the United States Constitution, perform the act of adopting a redevelopment plan providing for tax allocation financing, because this in effect operates to make certain property semi-tax exempt, thereby increasing the taxes on the other property in the various taxing entities also levying taxes on the property so exempted, is clearly erroneous. If this were true, the City could never purchase property for any public purpose without the consent of the other taxing entities levying taxes thereon, because its purchase would make the property tax exempt, and would result

in an increase in taxes on other property within the other taxing entities. This obviously is not the law.

An analogous situation is found in the housing authority cases. Under the Housing Authorities Law (California Health and Safety Code Sections 34000, et seq.) cities are empowered to form housing authorities which may acquire land which then becomes tax exempt. This would appear to involve the same principle contended for by the *amici curiae*. The Housing Authorities Law, including the tax exemption, has been held valid [*Housing Authority v. Dockweiler*, 14 Cal. 2d 437, 94 P. 2d 794 (1939), and sister state cases cited therein at 14 Cal. 2d pages 448-449, and 454. See also *Krause v. Peoria Housing Authority*, 370 Ill. 356, 19 N.E. 2d 193 (1939), wherein the question of whether or not a city could be deputed by the state as agent to represent all entities levying taxes on housing authority sites within the city regarding tax exemptions on the site and negotiation of contracts with the federal government as to such tax exemptions and related matters was answered affirmatively].

It is submitted that the contentions of *amici curiae* as to taxation without representation are without substance, and raise no substantial federal question.

B. The City Council May Constitutionally Be Empowered to Adopt Redevelopment Plans Providing for Tax Allocation Financing.

The contention of *amici curiae* that the California Legislature cannot delegate to the City Council the function of approving and adopting redevelopment plans in accordance with the standards set forth in the California Redevelopment Law (California Health and Safety Code § 33000 et seq.) for the redevelopment of slum

and blighted areas within the boundaries of the City of Los Angeles (the "City") to be financed in part by the issuance of tax allocation bonds, because the City Council is a "partisan agency" appears absurd on its face. This contention seems to be based upon the premise that the City Council would include provisions for tax allocation bonds, rather than providing for some other form of financing, which might be done by some less interested agency. Thus, *amici curiae* stated at page 10 of this proposed brief that the City Council would be duty bound to utilize funds "belonging to non-city taxing agencies" to the maximum extent possible.

Preliminarily, it should be noted that Article XIII, § 19 of the California Constitution and California Health and Safety Code §§ 33950-33954 provide that that *any* otherwise proper redevelopment plan may provide for tax allocation financing. Since any proper plan can be so financed, there would seem to be no basis for partisanship in approving a plan which provided for such financing.

It should further be noted, as set forth in subdivision A, above, that redevelopment in California is a matter of state concern, and that redevelopment projects are state projects, not municipal projects. The California Legislature found that the problems created by the existence of slums and blighted areas generalize throughout the state, and are not limited to the areas immediately surrounding such problem areas [See California Health and Safety Code §§ 33040-33048]. The suggestion implicit in the contentions of *amici curiae* that the City Council would be somehow avoiding a responsibility of the City by utilizing tax allocation financing therefore is patently false.

The argument of *amici curiae* is also based upon the assumption that tax funds "belonging" to other taxing agencies will be taken from them by the operation of the tax allocation provisions of the California Constitution and statutes. However, as shown above, these tax allocation provisions operate in the nature of a limited tax exemption on the increase in valuation of the property within the redevelopment project, which increase is brought about by the project.

It is submitted that this form of tax exemption for redevelopment projects is entirely proper, and that the local legislative body of the community wherein the project is located is the only logical body to be delegated the power and responsibility of approving and adopting redevelopment plans. By well-settled California law, no taxing agency within the state ever obtains a vested right to tax any particular property [*County of Mariposa v. Merced Irr. Dist.*, 32 Cal. 2d 467, 474, 196 P. 2d 920 (1948); *City of Long Beach v. Board of Supervisors of Los Angeles County*, 50 Cal. 2d 674, 678, 328 P. 2d 964 (1958)]. The state may therefore grant tax exemptions on property within the taxing jurisdiction of such agencies, including an exemption for property within redevelopment project areas.

The several states have broad power in respect of taxation for state purposes, which also extends to granting exemptions from taxation [*Allied Stores of Ohio v. Bowers*, 358 U. S. 522, 525-528]. In the *Allied* case, Ohio had granted a tax exemption to certain merchandise and agricultural products belonging to non-residents but stored in Ohio. The exemption was upheld against an attack on the ground that it violated the equal protection guarantees of the Fourteenth Amend-

ment. The Court stated that many reasons could have motivated the Ohio legislature and that the Court could not say that the exemption was not based upon a "reasonable distinction, or difference in state policy, or that no state of facts reasonably can be conceived to sustain it". Certainly it cannot be said that there is no state of facts to support the limited tax exemption questioned herein. The pledge, in effect, of the taxes produced by the increase in valuation brought about by redevelopment to finance that redevelopment appears completely reasonable. Similarly, the local legislative body of the community wherein the redevelopment project is located would appear to be the most logical unit of local government to be delegated the power to approve and adopt redevelopment plans.

It would seem clear that California could have provided a straight tax exemption for property within redevelopment project areas, as have other states [See subdivision A, above]. In such a case, it would appear absurd to argue that a local legislative body could not adopt a redevelopment plan because it were a so-called partisan agency, and because the adoption of the plan would create a tax exemption on the property within the project, thereby depriving other taxing agencies of a portion of their assessed valuation base.

There would appear to be no difference in substance between this hypothetical situation attacked by *amici curiae*, wherein the California Legislature has provided a more imaginative system to accomplish the same result—the use of the *ad valorem* taxes on the increase in valuation in a redevelopment project area brought about by the redevelopment of the area to aid in financing that redevelopment.

The *amici curiae* rely on *Carter v. Carter Coal Co.*, 298 U. S. 238, wherein it was held that a group of private persons in the coal industry could not be delegated power to regulate wages and hours since the majority would be in a position to regulate the business affairs of their competitors. Considerable doubt would appear to exist as to the remaining strength of the *Carter* case in view of *Sunshine Anthracite Coal Co. v. Adkins*, 310 U. S. 381 and *Old Dearborn Distrib. Co. v. Seagram-Distillers Corp.*, 299 U. S. 183.

The thrust of the *Carter* decision appears to be that it is improper to delegate governmental functions to non-governmental groups of private persons. Assuming that the *Carter* case is still the law in the sense noted, it would appear to be wholly inapplicable to the facts of this case. The City Council is one of the forms of local government created by the state, and as set forth above, when acting under state law to fulfill state objectives respecting redevelopment, it acts as a state agency. It in no sense is a non-governmental body. Further, the City and the other taxing agencies are not competing entities. They are all creatures of the state, fulfilling governmental functions. The *Carter* case would seem completely inapplicable. It is submitted that the contention of *amici curiae* that the City Council is not the proper agency to consider and adopt redevelopment plans for slum and blighted areas within the city, including plans financed by tax allocation bonds, is wholly without merit and raises no substantial federal questions.

Conclusion.

The *amici curiae* seek to file a brief in support of questions not propertly before this Court.

Further, the points made by the *amici curiae* are clearly without substance, and the constitutional questions covered in the proposed brief are wholly lacking in substantiality.

It is therefore submitted that the motion of the *amici curiae* for leave to file a brief in support of the Jurisdictional Statement of the Goldmans should be denied.

Respectfully submitted,

HENRY O. DUQUE,
Attorney for Appellee.

ADAMS, DUQUE & HAZELTINE,
BRUCE A. BECKMAN,
EUGENE B. JACOBS,
Of Counsel.

APPENDIX "A."

Partial Reporter's Transcript.
Wednesday, December 7, 1960
9:30 O'Clock A.M.

* * * * *

Mr. Clapp: * * * *

I just want to clean up a few other points here. I want to say this to your Honor. I have had it happen to me that when I had a point that merited consideration, that it got lost in somebody else's point because the Court worked so hard to dispose of that point, that mine became overlooked; and for that reason I have to feel it's the duty to my client and to the Court to say to you that I think Mr. Silver's difficulty arises from the fact that he will not recognize that the Council in this instance is a state Agency operating under State laws which were so very ably presented by Mr. Doherty yesterday.

I think when that premise—his premise to the contrary is removed, I think that he hasn't anything to talk about, and I do not want the Court to get lost in Mr. Silver's labyrinth.

In almost every important respect I agree with the Agency and the City Attorney, on those points in reference to Mr. Silver's position, and I think only that I should point out to the Court in connection with Mr. Beckman's argument this morning about the limitations of Section 527, CCP, that there is one case which indicates that a state tax payer may sue to enjoin the expenditure of funds by a state agency.

In that respect I agree with Mr. Silver. In all other respects I do not.

* * * * *

State of California, County of Los Angeles—ss.

I, Donald L. Ostrov, Official Reporter of the Superior Court of the State of California, for the County of Los Angeles, do hereby certify that the foregoing 3 pages are a true and accurate reporter's partial transcript of the closing argument of Mr. Austin Clapp taken on Wednesday, December 7, 1960, in the case of Frank W. Babcock vs. The Community Redevelopment Agency of the City of Los Angeles, California, etc., et al., No. 725375, and consolidated cases Numbers 723840, 723434, 725506, 725614, and 725637.

Dated this 12th day of September, 1964.

/s/ Donald L. Ostrov,
Official Reporter

APPENDIX "B."

California Health and Safety Code Sections 33040-33048.*

33040. It is found and declared that there exist in many communities blighted areas which constitute either social or economic liabilities, or both, requiring redevelopment in the interest of the health, safety, and general welfare of the people of such communities and of the State. These blighted areas are characterized by one or more of the conditions set forth in Sections 33041 to 33044, inclusive.

33041. A blighted area is characterized by the existence of buildings and structures, used or intended to be used for living, commercial, industrial, or other purposes, or any combination of such uses, which are unfit or unsafe to occupy for such purposes and are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime because of any one or a combination of the following factors:

(a) Defective design and character of physical construction.

(b) Faulty interior arrangement and exterior spacing.

(c) High density of population and overcrowding.

(d) Inadequate provision for ventilation, light, sanitation, open spaces, and recreation facilities.

(d) Age, obsolescence, deterioration, dilapidation, mixed character, or shifting of uses.

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*Recodified and renumbered in 1963 as California Health & Safety Code §§ 33030-33038.

33042. A blighted area is characterized by:

(a) An economic dislocation, deterioration, or disuse, resulting from faulty planning.

(b) The subdividing and sale of lots of irregular form and shape and inadequate size for proper usefulness and development.

(c) The laying out of lots in disregard of the contours and other physical characteristics of the ground and surrounding conditions.

(d) The existence of inadequate streets, open spaces, and utilities.

(e) The existence of lots or other areas which are subject to being submerged by water.

33043. A blighted area is characterized by a prevalence of depreciated values, impaired investments, and social and economic maladjustment to such an extent that the capacity to pay taxes is reduced and tax receipts are inadequate for the cost of public services rendered.

33044. A blighted area is characterized by:

(a) In some parts of the blighted area, a growing or total lack of proper utilization of areas, resulting in a stagnant and unproductive condition of land potentially useful and valuable for contributing to the public health, safety, and welfare.

(b) In other parts of the blighted area, a loss of population and reduction of proper utilization of the area, resulting in its further deterioration and added costs to the taxpayer for the creation of new public facilities and services elsewhere.

33045. It is further found and declared that:

(a) The existence of blighted areas characterized by any or all of such conditions constitutes a serious and growing menace which is condemned as injurious and inimical to the public health, safety, and welfare of the people of the communities in which they exist and of the people of the State.

(b) Such blighted areas present difficulties and handicaps which are beyond remedy and control solely by regulatory processes in the exercise of the police power.

(c) They contribute substantially and increasingly to the problems of, and necessitate excessive and disproportionate expenditures for, crime prevention, correction, prosecution, and punishment, the treatment of juvenile delinquency, the preservation of the public health and safety, and the maintaining of adequate police, fire, and accident protection and other public services and facilities.

(d) This menace is becoming increasingly direct and substantial in its significance and effect.

(e) The benefits which will result from the remedying of such conditions and the redevelopment of blighted areas will accrue to all the inhabitants and property owners of the communities in which they exist.

33046. It is further found and declared that:

(a) Such conditions of blight tend to further obsolescence, deterioration, and disuse because of the lack of incentive to the individual landowner and his inability to improve, modernize, or rehabilitate his property while the condition of the neighboring properties remain unchanged.

(b) As a consequence the process of deterioration of a blighted area frequently cannot be halted or corrected except by redeveloping the entire area, or substantial portions of it.

(c) Such conditions of blight are chiefly found in areas subdivided into small parcels, held in divided and widely scattered ownerships, frequently under defective titles, and in many such instances the private assembly of the land in blighted areas for redevelopment is so difficult and costly that it is uneconomic and as a practical matter impossible for owners to undertake because of lack of the legal power and excessive costs.

(d) The remedying of such conditions may require the public acquisition at fair prices of adequate areas, the clearance of the areas through demolition of existing obsolete, inadequate, unsafe, and insanitary buildings, and the redevelopment of the areas suffering from such conditions under proper supervision, with appropriate planning, and continuing land use and construction policies.

33047. For these reasons it is declared to be the policy of the State:

(a) To protect and promote the sound development and redevelopment of blighted areas and the general welfare of the inhabitants of the communities in which they exist by remedying such injurious conditions through the employment of all appropriate means.

(b) That whenever the redevelopment of blighted areas cannot be accomplished by private enterprise alone, without public participation and assistance in the acquisition of land, in planning and in the financing of land assembly, in the work of clearance, and in the making

of improvements necessary therefor, it is in the public interest to employ the power of eminent domain, to advance or expend public funds for these purposes, and to provide a means by which blighted areas may be redeveloped or rehabilitated.

(c) That the redevelopment of blighted areas and the provision for appropriate continuing land use and construction policies in them constitute public uses and purposes for which public money may be advanced or expended and private property acquired, and are governmental functions of state concern in the interest of health, safety, and welfare of the people of the State and of the communities in which the areas exist.

(d) That the necessity in the public interest for the provisions of this part is declared to be a matter of legislative determination.

33048. It is found and declared that blighted areas may include housing areas constructed as temporary government-owned wartime housing projects, and that such areas may be characterized by one or more of the conditions enumerated in Sections 33041 to 33044, inclusive.